

AVIATION TECHNOLOGIES LTD.

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Aviation Technologies Ltd., "ATL" PRINCIPAL PLACE OF BUSINESS: TONOPAH AIRPORT, NYE COUNTY, NEVADA

Robert Alan Kemp

[D/B/A:]

NEVADA CENTRAL RAILROAD

VIA - USPS and Emergency Fax Filing

The Honorable Daniel R. Elliott, III, Chairman - STB.

Ms. Cynthia T. Brown, Chief Section of Administration,

Office of Proceedings

Surface Transportation Board

395 - E Street, SW.

Washington, DC 20423

(Monday), January 04, 2010

226242

EMERGENCY FAX FILING: 202-245-0458 / - 0461 / - 0464

RE: Docket No. FD-35306

Lassen Valley Railway, LLC.

-- ACQUISITION AND OPERATION EXEMPTION --

Provision of Supplemental Evidence Supporting
Petition To Revoke

Dear Ms. Brown:

The instant Provision of Supplemental Evidence, refers to the Lassen Valley Railway, LLC., Acquisition and Operation Exemption: Docket No. FD-35306 filed by Fritz R. Kahn, on behalf of a Person: KERN W. SHUMACHER or, November 17th, 2009, and the NCR Petition To Revoke said filing by Lassen Valley Railway, LLC., executed by NCR to the Board on December 17th, 2009. A hard copy of this Motion is also enclosed via USPS, to permit circulation of same to the Board and Staff.

Very truly yours,

Robert Alan Kemp (702) 914-7798 ncrnv@aol.com

D/B/A: **NEVADA CENTRAL RAILROAD**

Enclosures: Motion for Extension of Time To Supplement Filing, Certificate of Service

ENTERED
Office of Proceedings

JAN - 5 2009

Part of
Public Record

cc: Mr. John T. Digilio, Jr., Vice Chairman - Director/President,

Nevada Central Railroad, Corporation

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB - DOCKET NO: FD - 35306

**Lassen Valley Railway LLC.
-- ACQUISITION AND OPERATION EXEMPTION --
IN LASSEN COUNTY, CALIFORNIA AND WASHOE COUNTY, NEVADA**

**Provision of Supplemental Evidence Supporting
Petition To Revoke**

**- NEVADA CENTRAL RAILROAD -
(FACTUAL BACKGROUND AND SUMMARY OF RELIEF REQUESTED)**

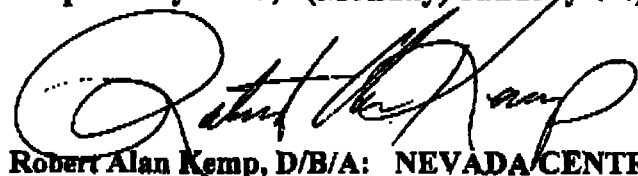
STATEMENT OF FACTS

1. On December 17th, 2009 this Petitioner: Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD hereafter, ("NCR"), filed LEAVE TO SUPPLEMENT FILING of his Petition to Revoke, and requested a 13-Calender Day time period for which to Supplement his Petition. Based on the doctrine of Excusable Neglect, NCR then on December 30th, 2009 requested that the Board Further Extend the Time for NCR to Supplement its Petition to Reject by 5-Calender Days, as a result of Petitioners Minimal Access to Official Government Offices during the Christmas and New Years Holidays, as necessary to complete Supplemental Filing that will include the Provision to the Board of a Copy of his CONDEMNATION SUIT filed at the California Superior Court, in Lassen County, California relating to his intended acquisition of the Susanville Industrial Lead, and the HL-Power Plant in Wendel, CA.

PROVISION OF SUPPLEMENTAL SUPPORTING EVIDENCE

2. Based on the Foregoing, Petitioner now respectfully files additional Supporting Evidence directly supporting his Motion to Reject previously filed on December 17th., 2009.
3. Petitioner hereby files a Verification Statement supporting his Petition To Revoke previously filed on December 17th., 2009. Please see: [PETITIONERS EXHIBIT: (01-04-2010-13-01)].
4. Petitioner hereby files a copy of his Suit in Condemnation of the HL-Power Plant in Wendel, CA, and the Susanville Industrial Lead, as well as (to be identified Specific Local Real Property within 2-Miles of the location of the HL Power Plant in Wendel, CA.), as necessary to enable a contiguous Rail Line Connection to the Susanville Industrial Lead. Please see: [PETITIONERS EXHIBIT: (01-04-2010-13-02)].

Respectfully Filed, (Monday) January 4th., 2010



Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD

(702) 914- 7796

email: ncrnv@aol.com

AVIATION TECHNOLOGIES LTD.

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Robert Alan Kemp

[D/B/A:]

NEVADA CENTRAL RAILROAD

VIA - USPS and Emergency Fax Filing

(Monday), January 4, 2010

The Honorable Daniel R. Elliott, III, Chairman - STB.

Ms. Cynthia T. Brown, Chief Section of Administration,

Office of Proceedings .

Surface Transportation Board

EMERGENCY FAX FILING: 202- 245- 0458 / - 0461 / - 0464

395 - E Street, SW.

Washington, DC 20423

RE: Docket No. FD- 35306

Lassen Valley Railway, LLC.

-- ACQUISITION AND OPERATION EXEMPTION --

**Provision of Supplemental Evidence Supporting
Petition To Revoke**

CERTIFICATE OF SERVICE

I, Robert Alan Kemp certify that on this 4th day of January, 2010, that I made service of the attached original NCR **[Provision of Supplemental Evidence Supporting Petition To Revoke]**, upon the Surface Transportation Board, (STB), and mailed a Single Copy of same to all Parties, Agencies, and Individuals, listed for Service within the Lassen Valley Railroad Exemption: FD-35306, by depositing same into the United States First Class Mail with prepaid postage, and also Directly to the STB via EMERGENCY FAX FILING, and by United States First Class Mail with prepaid postage to: Surface Transportation Board, 395 - E Street SW, Washington, DC 20024.



Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD
(702) 914- 7796 ncrnv@aol.com

PETITIONERS EXHIBIT: (01-04-2010-13-01)**VERIFICATION**

STATE OF NEVADA)
)ss
COUNTY OF WASHOE)

ROBERT ALAN KEMP, D/B/A: NEVADA CENTRAL RAILROAD, being first duly sworn, deposes and says:

That he is an authorized representative of NEVADA CENTRAL RAILROAD in the above entitled Action for his: **[Emergency Petition To Reject And Or Revoke Exemption]**; and therefore declares under penalty of perjury, under the laws of the United States of America, that he has prior to and at the time of execution and filing on December 17th, 2010, read his **[Emergency Petition To Reject And Or Revoke Exemption]** and knows the contents thereof; and that the same are true of his own knowledge, except for those matters therein contained stated as upon information and belief, and as to those matters he believes them to be true.



ROBERT A. KEMP

Subscribed and sworn to before me on

this 4th day of JANUARY, 2010.

PETITIONERS EXHIBIT: (01-04-2010-13-02)

ENDORSED FILED

JAN 04 2010 Revision-

SUPERIOR COURT OF CALIFORNIA IN AND FOR
THE COUNTY OF LASSEN

L. Barron

Defendants,

**ROBERT ALAN KEMP, D/B/A:
 NEVADA CENTRAL
 RAILROAD,**

U9869

NEVADA CENTRAL RAILROAD
 a Nevada corporation,

Plaintiff's,

vs.

COMPLAINT

IN

CONDEMNATION

OF

REAL PROPERTY

[HL- POWER COMPANY], [HL-
 POWER COMPANY CALIFORNIA
 LIMITED PARTNERSHIP],
 [CURRENT ENTITY OR INDIVIDUAL
 PERSONS AS OWNER(S) OF HL-
 POWER COMPANY COMBINED
 GEOTHERMAL-BIOMASS
 ELECTRICAL POWER GENERATING
 PLANT LOCATED AT: 732-025, Wendel
 Road, Wendel, CA, 96136-9705], [LAND
 OWNER(S) OF REAL PROPERTY
 SITUATED WITHIN 25' OF
 CENTERLINE OF THE
 ABANDONED SUSANVILLE
 INDUSTRIAL LEAD AT MILEPOST
 359.25 NEAR WENDEL, CA,
 EXTENDING IN A WEST/NORTH
 WEST DIRECTION TO THE CITY OF
 SUSANVILLE, CA], AND
 [SPECIFICALLY IDENTIFIED REAL
 PROPERTY OWNERS IN WENDEL,
 CALIFORNIA WITHIN A TWO MILE
 RADIUS OF THE HL-POWER
 COMPANY COMBINED
 GEOTHERMAL-BIOMASS
 ELECTRICAL POWER GENERATING
 PLANT LOCATED AT: 732-025, Wendel
 Road, Wendel, CA, 96136-9705], [JOHN
 DOES, individuals, 1 through 300]; and
 [ROE corporations or business entities,
 XI through XX].

PETITIONERS EXHIBIT: (01-04-2010-13-02)**FACTUAL ALLEGATIONS**

1
2
3 A. Plaintiff's, ROBERT ALAN KEMP, D/B/A: NEVADA CENTRAL RAILROAD, and the
4 NEVADA CENTRAL RAILROAD CORPORATION, ("Plaintiff's"), further alleges against
5 Defendants [HL- POWER COMPANY], [HL- POWER COMPANY CALIFORNIA LIMITED
6 PARTNERSHIP], [CURRENT ENTITY OR INDIVIDUAL PERSONS AS OWNER(S) OF HL-
7 POWER COMPANY COMBINED GEOTHERMAL-BIOMASS ELECTRICAL POWER
8 GENERATING PLANT LOCATED AT: 732-025, Wendel Road, Wendel, CA, 96136-9705],
9 [LAND OWNER(S) OF REAL PROPERTY SITUATED WITHIN 25' OF CENTERLINE OF
10 THE ABANDONED SUSANVILLE INDUSTRIAL LEAD AT MILEPOST 359.25 NEAR
11 WENDEL, CA, EXTENDING IN A WEST/NORTH WEST DIRECTION TO THE CITY OF
12 SUSANVILLE, CA], AND [SPECIFICALLY IDENTIFIED REAL PROPERTY OWNERS IN
13 WENDEL, CALIFORNIA WITHIN A TWO MILE RADIUS OF THE HL-POWER
14 COMPANY COMBINED GEOTHERMAL-BIOMASS ELECTRICAL POWER
15 GENERATING PLANT LOCATED AT: 732-025, Wendel Road, Wendel, CA, 96136-9705],
16 [JOHN DOES, individuals, 1 through 300]; and [ROE corporations or business entities, XI
17 through XX](collectively "Defendants") as follows:

- 18
19 1. At all relevant times, Plaintiff's are both lawfully and independently organized as Federally
20 Regulated Railroad Company's under and existing by virtue of the laws of the State of
21 Nevada, with their principal place of business located in Tonopah, Nevada.
22 2. Plaintiff's are informed and believe and thereupon allege that Defendant [HL- POWER
23 COMPANY], [HL- POWER COMPANY CALIFORNIA LIMITED PARTNERSHIP],
24 [CURRENT ENTITY OR INDIVIDUAL PERSONS AS OWNER(S) OF HL-POWER
25 COMPANY COMBINED GEOTHERMAL-BIOMASS ELECTRICAL POWER
26 GENERATING PLANT LOCATED AT: 732-025, Wendel Road, Wendel, CA, 96136-
27 9705], is a California Limited Partnership, organized and existing under the laws of the State
28 of California, and the holder of an interest in a certain real property situated in Lassen County,

PETITIONERS EXHIBIT: (01-04-2010-13-02)

- 1 State of California, described more specifically later.
- 2 3. Plaintiff's are informed and believe and thereupon allege that Defendant [LAND OWNER(S)
- 3 OF REAL PROPERTY SITUATED WITHIN 25' OF CENTERLINE OF THE
- 4 ABANDONED SUSANVILLE INDUSTRIAL LEAD (See: STB AB-512X), AT
- 5 MILEPOST 359.25 NEAR WENDEL, CA, EXTENDING IN A WEST/NORTH WEST
- 6 DIRECTION TO THE CITY OF SUSANVILLE, CA], AND [SPECIFICALLY
- 7 IDENTIFIED REAL PROPERTY OWNERS IN WENDEL, CALIFORNIA WITHIN
- 8 A TWO MILE RADIUS OF THE HL-POWER COMPANY COMBINED
- 9 GEOTHERMAL-BIOMASS ELECTRICAL POWER GENERATING PLANT
- 10 LOCATED AT: 732-025, Wendel Road, Wendel, CA, 96136-9705], hold an interest in
- 11 a certain real property situated in Lassen County, State of California, described more
- 12 specifically later.
- 13 4. Plaintiff's are informed and believe and thereupon allege that the Plaintiff is informed and
- 14 believes and thereupon alleges that [JOHN DOES, individuals, 1 through 300]; and [ROE
- 15 corporations or business entities, XI through XX], as individual defendants and/or the
- 16 ROE corporations or business entities may assert a right of ownership or occupancy to the
- 17 condemned property, the nature of which interest is unknown to Plaintiff. The identities of
- 18 the JOHN DOE Defendants and ROE corporations are unknown to Plaintiff but they may
- 19 assert some claim or interest to the said property, and upon such assertion Plaintiff reserves
- 20 the right to amend the proceedings accordingly.
- 21 5. The purposes for which Plaintiff's are independently operating, or are incorporated, are,
- 22 among other things, the right to engage in the business of constructing, maintaining and
- 23 operating a mainline railway with associated connecting branch lines and maintenance
- 24 facilities, engaging in public interstate transportation by rail within the State of Nevada and
- 25 California, as well as the Continental United States
- 26 6. Plaintiff's have the authority to acquire, by right of eminent domain, all such real property and
- 27 personal property as may be necessary for the construction, operation and maintenance of its
- 28 railroad and for its buildings and yards under Sections 1240.610 - 1240-700 of the California

PETITIONERS EXHIBIT: (01-04-2010-13-02)

Revised Statutes.

7. The First portion of land (real property, structures and equipment) that Plaintiff seeks to condemn on behalf of and for a public purpose and use that is owned by Defendants, is the real property, equipment and all associated intellectual and legal assets consisting of and surrounding the **[HL-POWER COMPANY COMBINED GEOTHERMAL-BIOMASS ELECTRICAL POWER GENERATING PLANT LOCATED AT: 732-025, Wendel Road, Wendel, CA, 96136-9705]** and is located in Lassen County, State of California, to be further defined with a survey with notice and due process before any hearing is held on this matter.
8. The Second contiguous portion of land (real property, structures and equipment) that Plaintiff seeks to condemn on behalf of and for a public purpose and use that is owned by Defendants, is **APPROXIMATELY 50 FEET IN WIDTH, WITHIN 25' OF CENTERLINE OF THE ABANDONED SUSANVILLE INDUSTRIAL LEAD (See: STB AB-512X), AT MILEPOST 359.25 NEAR WENDEL, CA, EXTENDING IN A WEST/NORTH WEST DIRECTION TO THE CITY OF SUSANVILLE, CA** and is located in Lassen County, State of California, to be further defined with a survey with notice and due process before any hearing is held on this matter.
9. The Third portion of land (real property, structures and equipment) that Plaintiff seeks to condemn on behalf of and for a public purpose and use that is owned by Defendants, is the real property consisting of the **SPECIFICALLY IDENTIFIED REAL PROPERTY IN WENDEL, CALIFORNIA WITHIN A TWO MILE RADIUS OF THE HL-POWER COMPANY COMBINED GEOTHERMAL-BIOMASS ELECTRICAL POWER GENERATING PLANT LOCATED AT: 732-025, Wendel Road, Wendel, CA, 96136-9705** to be further defined with a survey with notice and due process before any hearing is held on this matter.
10. The uses, and each of them, for which the railroad electrical power generating plant, railway right-of-way is sought to be condemned and to which the railway electrical generating plant and right-of-way is to be applied are uses authorized by law, to wit for the furtherance of

PETITIONERS EXHIBIT: (01-04-2010-13-02)

interstate commerce, mining, and public transportation of freight and passengers. The taking sought herein is necessary to such uses. The public uses and necessity require that Plaintiff acquire the railway right-of-way sought to be condemned for the public purposes and uses described herein.

11. Plaintiff has endeavored on numerous occasions, through legal notice and oral offers, written and contractual as communicated to specifically identified defendants, to secure the necessary real property to construct, operate and maintain the NCR Main Line Railway and associated Main Branch Lines, but without success and it is therefore necessary to initiate this eminent domain proceeding in order to obtain real property identified herein necessary to support the construction of the new right of way, and to maintain and operate the proposed NCR Railway MODOC - Main Line, and associated Main Branch Lines.

12. Plaintiff seeks to take and to condemn municipal and private property interests under its authority provided by Sections 1240.610 - 1240-700 of the California Revised Statutes, to wit: a railroad electrical power generating facility, and a railroad right-of-way containing the real property to be further defined with a survey with notice and due process before any hearing is held on this matter.

13. That where there are two or more estates or a divided interest in the real property sought to be condemned, Sections 1240.610 - 1240-700 of the California Revised Statutes entitles Plaintiff's to have the amount of the award of just compensation to be paid for the subject real property to be determined as between Plaintiff's and all of the Defendants claiming any interest therein; and that the respective rights of such Defendants in and to the award are to be determined subsequently in a later and separate hearing in the same proceeding.

WHEREFORE Plaintiff prays:

For a judgment in condemnation of the land for which subject property being condemned as more particularly described in attached Exhibits to be made and entered by this court, and for the judgment to fix the amount of compensation to be paid by Plaintiff to Defendants entitled thereto for the condemnation of the right-of-way composed of said land and related material in the form of real property.

PETITIONERS EXHIBIT: (01-04-2010-13-02)

1. For the court to subsequently determine the respective rights of the Defendants, if any, in and to the just compensation for the subject property being condemned pursuant to Sections 1240.610 - 1240-700 of the California Revised Statutes
2. Upon compliance with the requirements of the judgment and the provisions of Sections 1240.610 - 1240-700 of the California Revised Statutes of the Nevada Revised Statutes, a final order for condemnation be made and entered by this court.
3. For such other and further relief as the court may deem just and proper. DATED this 4th day of January, 2010.

By: 

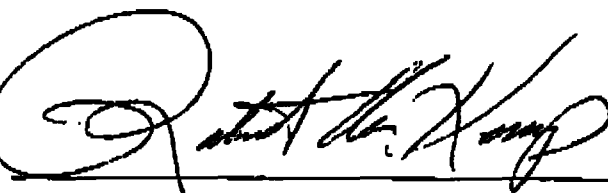
ROBERT ALAN KEMP, D/B/A:
NEVADA CENTRAL RAILROAD,
ROBERT ALAN KEMP, General Counsel,
NEVADA CENTRAL RAILROAD, corporation
C/O: EXECUTIVE FIELD OFFICE
NEVADA CENTRAL RAILROAD,
2741 - PINWOOD AVENUE,
HENDERSON, NV 89074
[702] 914- 7796

PETITIONERS EXHIBIT: (01-04-2010-13-02)**AFFIDAVIT OF VERIFICATION**

STATE OF NEVADA)
CLARK)ss
COUNTY OF ~~WASHOE~~)

ROBERT ALAN KEMP, D/B/A: NEVADA CENTRAL RAILROAD being first duly sworn, deposes and says:

That he is an authorized representative of NEVADA CENTRAL RAILROAD in the above-entitled Action; and therefore declares under penalty of perjury, under the laws of the United States of America, that he has read the foregoing COMPLAINT IN CONDEMNATION and knows the contents thereof; that the same are true of his own knowledge, except for those matters therein contained stated as upon information and belied, and as to those matters he believes them to be true.



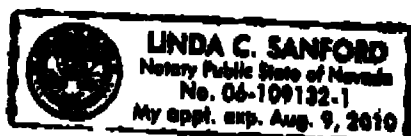
ROBERT A. KEMP

Subscribed and sworn to before me on
this 2 day of JANUARY, 2010.



NOTARY PUBLIC

Stamp:



7 7
Page 15 of 15